IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 22639 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DAHYABHAI JAYRAMBHAI VAGHARI THRO' SON IN LAW - Petitioner(s)
Versus
STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR HR PRAJAPATI for Petitioner(s) : 1,MR MR PRAJAPATI for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1 - 2.
Mr. N.D. Gohil, ASST. GOVERNMENT PLEADER for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 13/06/2006

ORAL JUDGMENT

The present petition is filed by Jugabhai Jorabhai Vaghari, son in law of Dahyabhai Jayrambhai

Vaghari challenging detention order dated 09/11/05 by which Dahyabhai Jayrambhai Vaghari is detained under the provisions of Gujarat Prevention of Anti-Social Activities Act, 1985 [hereinafter referred to as PASA Act].

In the grounds of detention, there is a reference to a solitary case pending against the petitioner under the Bombay Prohibition Act.

Learned advocate for the petitioner submitted that except a solitary criminal case, there is no other statement of any independent witness for coming to the conclusion that the activities of the petitioner is prejudicial to public order or even tempo of public is disturbed by the said activities. It is submitted that at the most it can be said that the petitioner has violated law and order, and not public order.

It is not in dispute that except a solitary criminal cases, there is neither statement of any independent witnesses nor any documents on the record to suggest that the said activities of the petitioner prejudicially affect public health or that by the said activities, the even tempo of public is disturbed. The offence registered against the petitioner is under the Bombay Prohibition Act. In that view of the matter, at the most it can be said that the petitioner has violated law and order, and not public order.

In the result, the petition is allowed. Order of detention passed against the detenu dated 09-11-05 is quashed and set aside. The detenu Dahyabhai Jayrambhai Vaghari is ordered to be released forthwith unless he is required in connection with any other offence. Rule is made absolute, with no order as to costs.

[P. B. MAJMUDAR, J.]

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